proposition as to whether the duty rests upon the driver of a vehicle to look and listen before he attempts to cross the street car tracks, and whether (as is generally held in the case of steam railroad crossings) it is negligence per se to fail so to do. That it is, *Burns* v. *Metropolitan St. Ry. Co.*, 66 Kan. 188; *Hooks* v. *Huntsville etc. Co.*, 147 Ala. 700, 41 South. 273; *Doherty* v. *Detroit etc. Ry. Co.*, 118 Mich. 209; *Wolf* v. *City etc. Ry. Co.*, 45 Ore. 446; *Stafford* v. *Chippewa etc. R. Co.*, 110 Wis. 331; *Young* v. *Citizens St. Ry. Co.*, 148 Ind. 54; *McGee* v. *Consolidated St. Ry. Co.*, 102 Mich. 107, 26 L. R. A. 300; *McCracken* v. *Consolidated etc. Ry. Co.*, 201 Pa. 378. Other courts agreeing with the principal case say that the fact that the person driving across at the crossing did not look and listen is not negligence per se, but that it is a question for the jury whether he acted as an ordinarily prudent man would have acted under the particular circumstances before he attempted to cross. *Pilmer* v. *Boise Traction Co.*, supra; *Marden* v. *Portsmouth etc. Ry. Co.*, supra; *Los Angeles Tr. Co.* v. *Conneally*, 136 Fed. 104, 69 C. C. A. 92; *Roberts* v. *Spokane etc. Ry. Co.*, 23 Wash. 325, 54 L. R. A. 184; *Finnick* v. *Boston etc. Ry. Co.*, 190 Mass. 382; *Wilson* v. *Memphis etc. Ry. Co.*, 105 Tenn. 74; *Bars, Adm'r.* v. *Norfolk etc. Ry. Co.*, 100 Va. 1; *Watson* v. *Minneapolis etc. Ry. Co.*, 53 Minn. 551.

TORTS—LIABILITY OF INFANTS FOR NEGLIGENCE.—Plaintiff, a boy about ten years old, and defendant a boy of the same age, attended the same school and were friends. Both were playing in the schoolyard during recess, and as plaintiff was kneeling to shoot a marble, defendant came running around the schoolhouse, being chased by another boy, and accidentally ran into plaintiff, knocking him over and so injuring plaintiffs eye that his sight was destroyed. *Held*, the evidence was insufficient to establish actionable negligence on the part of defendant. *Briese* v. *Maechtle* (1911), — Wis. —, 130 N. W. 893.

It has never been doubted in English law that an infant is liable for his torts, unconnected with his contracts. Y. B. 35 Hen. VI, f. 11, pl. 18 (1456); *Peterson* v. *Haffner*, 59 Ind. 130, 26 Am. Rep. 81, and note; *Vosbury* v. *Putney*, 80 Wis. 523, 50 N. W. 403. But one engaged in a lawful or purely accidental act is not liable for its harmful results, *Stanley* v. *Powell* [1891], 1 Q. B. D. 86, 60 L. J. Q. B. 52; *Brown* v. *Kendall*, 6 Cush. 292; *Spade* v. *Lynn, Etc., Ry.*, 172 Mass. 488, 52 N. E. 747, 70 Am. St. Rep. 298; unless guilty of actionable negligence. This qualification was pointed out in *Vosbury* v. *Putney*, supra, in which the court, while holding an infant who, without malice, kicked another boy on the leg in school hours, liable for his unlawful act, seemed to prophesy the present case by saying that had the parties been on the school playground engaged in usual boyish sports, the act probably would have been neither unlawful nor actionable. In construing actionable negligence the courts hold an infant to such care and prudence only as is usual among children of that age and experience, in similar circumstances. COOLEY, TORTS, Ed. 3, p. 823; *Anderson* v. *Chicago Brass Co.*, 127 Wis. 273, 106 N. W. 1077. The court in the principal case holds the act of the defendant "lawful and laudable," and considering the comparative standard of negligence applied to

infants, with the circumstances under which the accident happened, decides that the defendant was guilty of no legal fault.

VENDOR AND PURCHASER—PURCHASER FROM HEIR—UNRECORDED DEED.—On December 15, 1904, Mrs. Reithman conveyed certain lands to Mrs. Wagner, for valuable consideration, the deed not being recorded until August 17, 1905. By the death of Mrs. R., January 17, 1905, an undivided one-half interest in her property descended to her husband. At this time the plaintiff, Mrs. Alexander, was a judgment creditor of Mrs. Reithman, and in March she caused an execution to issue and a levy to be made upon the lands described in Mrs. Wagner's deed as the interest of Reithman in the lands of his wife. A sale was had, and a sheriff's deed given to plaintiff, she having no knowledge of the unrecorded deed to Mrs. Wagner. In an action for partition, *Held*, that plaintiff took title free from any claim of Mrs. Wagner who claimed under the unrecorded deed from Mrs. R. *Hallett* v. *Alexander* (1911), — Colo. —, 114 Pac. 490.

This is a novel application of the well recognized rule and seems to have arisen in but a few jurisdictions. In *Memphis Land & Timber Co.*, v. *Ford*, 58 Fed. 452, it was held that the subsequent purchaser from an heir was protected as the purpose of the recording laws is to cover such cases, and the heir stands in the shoes of his ancestor and has no further rights. A similar conclusion was reached in *Kennedy* v. *Northup*, 15 Ill. 148 where in construing the words "subsequent purchasers" as used in the recording act, the court held that they included subsequent purchasers from the heir, as well as from the original grantor. The same doctrine was upheld in *McClure* v. *Tallman et al.*, 30 Iowa 515; *Earle* v. *Fiske*, 103 Mass. 491; *Youngblood* v. *Vastine et al.*, 46 Mo. 239; *McCulloch's Lessee* v. *Eudaly*, 11 Tenn. 346. See WADE, NOTICE, § 217. A contrary doctrine was announced in *Hill* v. *Meeker*, 24 Conn. 211, by a divided court. In Georgia under a peculiar statute it was so held in *Webb* v. *Wilcher et al.*, 33 Ga. 565, and also in Kentucky, *Harlan* v. *Seaton*, 18 B. Mon. (Ky.) 312, until changed by statute. *Dozier* v. *Barnett*, 13 Bush. (Ky.) 457.